

REMARKS

Claims 1-3, 5, 7, 9-14, 16-18, 21-27 are pending. Claims 19, 20, 28, 29, 31-32 have been withdrawn. Claims 4, 6, 8, 15 and 30 has been canceled.

Support for the amendment to claim 1 is found in as-filed claim 6, and the as-filed spec at page 4, line 19.

Claims 1-3, 5-14, 16-18 and 21-23 stand rejected under 35 USC 103 as being unpatentable over US Published Patent Application 2002/0049449 (“Bhatnagar”) in view of US Patent No. 4,645,488 (“Matukas”).

First, Applicant respectfully disagrees with the proposed combination advanced by the Examiner. In order for references to be properly combined, there must be a teaching or suggestion within one of the references to make such a combination. In this respect, the Examiner advocates the proposed change “to reduce the frictional resistance between the material and the wall of the syringe or delivery tube.” However, Matukas describes “jamming” due to frictional resistance between the sharp edges of the particulate ceramic material used in dental restorative procedures and the syringe barrel as the problem that was solved. Bhatnagar does not teach or suggest using particulate ceramic material used in dental restorative procedures, nor does it teach or suggest such issues such as jamming. Therefore, the skilled artisan starting with Bhatnagar would not appreciate any need to provide flexible components because Bhatnagar does not provide the basis for developing such a need.

Second, Applicant’s have amended claim 1 to require a flexible proximal end portion. Matukas does not disclose a flexible proximal end portion. Matukas only discloses a flexible plastic barrel 10, a flexible closure plug 13 and a flexible piston 16. See col. 2, line 6, and col. 4, lines 21-22. Matukas does not disclose a flexible piston rod 14. Therefore, even if the Examiner’s combination were accepted, the proposed combination does not result in the as-claimed invention.

Therefore, the present rejection should be withdrawn.

Claims 24-27 stand rejected under 35 USC 103 as being unpatentable over US Published Patent Application 2002/0049449 (“Bhatnagar”) in view of US Patent No. 4,645,488 (“Matukas”) and US Patent No. 4,865,591 (Sams).

As explained above, the combination advanced by the Examiner does not arrive at the present invention, and Matukas does not teach a flexible plunger having a flexible proximal end portion. Sams has been cited for its disclosure related to ratchet teeth and so does not cure the deficiencies of the proposed combination, nor of Matukas.

Therefore, the present rejection should be withdrawn.

Please provide any extensions of time which may be necessary and charge any fees which may be due to Deposit Account No. 10-0750/DEP5164/TMD, but do not include any payment of issue fees.

Respectfully submitted,

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